

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 29, 2002

IN RE:

**PETITION FOR APPROVAL OF THE
AMENDMENT TO THE
INTERCONNECTION AGREEMENT
BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND XO
TENNESSEE, INC.**

DOCKET NO. 02-00692

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 5, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and XO Tennessee, Inc.

The original interconnection agreement was filed on November 5, 1999 and was assigned Docket No. 98-00123. The Authority conditionally approved the agreement as modified at the March 28, 2000 Authority Conference. On June 30, 2001, after reaching a settlement in a related federal court case and in response to a data request from the Authority, BellSouth Telecommunications, Inc. filed the first amendment to the agreement regarding the conditional

approval. The first amendment was also filed under Docket No. 98-00123, and the Authority approved the first amendment at the February 21, 2001 Authority Conference. The parties filed a second amendment on June 1, 2001, and it was assigned Docket No. 01-00477. At a regularly scheduled Authority Conference on August 7, 2001, a majority¹ of the Directors voted to take no action on the second amendment; therefore, by operation of 47 U.S.C. § 252(e)(4), the second amendment was deemed approved on August 30, 2001. The parties filed a third amendment on December 10, 2001, and it was assigned Docket No. 01-01094. The Authority approved the third Amendment at the February 5, 2002 Authority Conference. The fourth amendments were filed on April 2, 2002, and they were assigned Docket No. 02-00342. The fourth amendments were approved at the May 21, 2002 Authority Conference. The fifth amendment, which is the subject of this docket, was filed on June 10, 2002.

Based upon the review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the amendment and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The fifth amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.

¹ Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval. The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Chairman Kyle and Director Deborah Taylor Tate, and Director Pat Miller was randomly selected and assigned to this docket.

3) The fifth amendment is not discriminatory to telecommunications service providers that are not parties thereto.

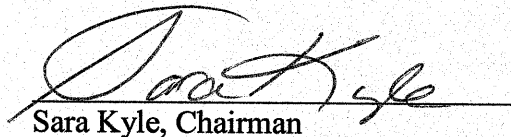
4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

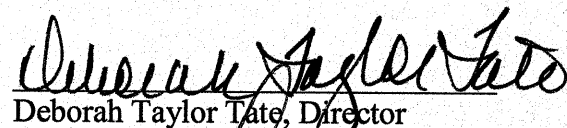
5) No person or entity has sought to intervene in this docket.


6) The fifth amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and XO Tennessee, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

² See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).